

In re: Malik
Serial No.: 09/838,878
Filed: April 20, 2001
Page 9 of 14

REMARKS

Applicant appreciates the thorough review of the present application reflected in the Office Action of August 12, 2005, and in particular appreciates the Examiner's identification of the claim dependency errors present with respect to Claims 17, 33 and 49. The Examiner correctly surmises in the Office Action that Applicant's intention was for these claims to depend from Claims 8, 25 and 41, respectively. Claims 17, 33 and 49 have been amended to depend from Claims 8, 25 and 41, respectively, to correct the inadvertent errors identified by the Examiner.

Each of the pending claims stand rejected under 35 U.S.C. § 103(a) as unpatentable over www.Bestdoctors.com ("Bestdoctors") in view of U.S. Patent No. 6,589,169 to Surwit et al. ("Surwit") and, with respect to some claims, one or more secondary references. For the reasons discussed below, Applicant respectfully traverses these rejections.

I. The Cited References Fail to Disclose or Suggest All of the Recitations of Independent Claims 8, 25 and 41

Independent Claims 8, 25 and 41 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Bestdoctors in view of Surwit. (Office Action at 3-4). In particular, the Office Action states that Bestdoctors teaches:

- Accepting information from a patient;
- Assigning patients and providers based on attributes entered by patient;
- Providers viewing information; and
- Providing a secure area to diagnose or treat patient.

(Office Action at 3). The Office Action further states that Surwit teaches "communicating treatment information via wireless, e-mail or fax" and that it "is well known in the field of medicine that a doctor presents the patient with all possible treatment options." (Office Action at 3-4).

Applicant's understanding is that the Office Action is taking the position that Bestdoctors teaches the first four paragraphs of Claim 8 that follow the preamble, and that Surwit and the knowledge of one of skill in the art teach the fifth and sixth paragraphs of the body of Claim 8 (or the corresponding recitations of Claims 25 and 41). Applicant, however, has carefully reviewed the cited references and respectfully submits that they fail to teach or disclose any of

In re: Malik
Serial No.: 09/838,878
Filed: April 20, 2001
Page 10 of 14

the six paragraphs that comprise the body of Claim 8 (or the corresponding recitations of Claims 25 and 41).

A. Accepting Entry of Information About a Medical Condition of a Patient

The Office Action cites to paragraph 1 on page 4 of Bestdoctors as teaching "accepting information from a patient" which, as noted above, appears to be a shorthand identifier for the first paragraph of the respective bodies of Claims 8, 25 and 41. The cited portion of Bestdoctors discusses a subscription service in which patients can "create portfolios that reflect [their] health concerns." (Bestdoctors at p. 4, ¶ 1). Based on these portfolios, Bestdoctors, as part of the subscription service, sends the patients information on "new developments concerning any specific disease in [their] portfolio." (Bestdoctors at p. 4, ¶ 2). Thus, what the cited portion of Bestdoctors discusses is a library subscription type service where, for a fee, individuals can sign up for alerts that provide them information on "new developments" relating to "specific diseases."

In contrast, what the first paragraph of the respective bodies of Claims 8, 25 and 41 recite is "accepting entry of information about a medical condition of a patient, wherein the information is entered via a web-based client device in communication with the data processing system." Applicant respectfully submits that the cited portion of Bestdoctors does not state that a patient enters information about a specific medical condition of the patient, nor does it disclose that the information is "entered via a web-based client device" as recited in independent Claims 8, 25 and 41. More importantly, in Claims 8, 25 and 41, the claims expressly recite that the information that is entered is viewed by a healthcare provider. (*See, e.g.,* Claim 8, reciting "allowing a healthcare provider . . . to view the patient information"). In contrast, the data reflecting a patient's "health concerns" that is discussed in the cited portion of Bestdoctors is never viewed by a healthcare provider, but is instead simply used to determine which information on new medical developments is forwarded to the subscriber. As such, Applicant respectfully submits that Bestdoctors fails to teach or disclose the first paragraph of Claim 8 of the corresponding recitations of Claims 25 and 41.

In re: Malik
Serial No.: 09/838,878
Filed: April 20, 2001
Page 11 of 14

B. Assigning the Patient to One of a Plurality of Pools

The Office Action cites to paragraphs 2-4 on page 2 of Bestdoctors as teaching the second paragraph of the body of Claims 8, 25 and 41. (See Office Action at p. 3, citing Bestdoctors as teaching "assigning patients and providers based on attributes entered by patient"). The cited portion of Bestdoctors discusses a telephone based service in which a "Medical Case Manager" uses medical information of a patient to identify physicians that match the requirements of the particular case. (Bestdoctors at p. 2, ¶¶ 2-4). In contrast, the second paragraph of the body of Claims 8, 25 and 41 recites, among other things, "assigning the patient to one of a plurality of pools of patients." Applicants respectfully submit that the cited portion of Bestdoctors fails to disclose or suggest assigning patients "to one of a plurality of pools." Additionally, the determination of doctors discussed in Bestdoctors is not part of a "web-based data processing system" as recited in Claims 8, 25 and 41. Accordingly, for each of these reasons, it is also clear that Bestdoctors fails to disclose or suggest the second paragraph of the body of Claim 8 and the corresponding recitations of Claims 25 and 41.

C. Healthcare Provider Viewing the Patient Information

The Office Action cites to paragraph 5 on page 2 of Bestdoctors as teaching the third paragraph of the body of Claim 8 and the corresponding recitations of Claims 25 and 41. (See Office Action at p. 3, citing Bestdoctors as teaching "providers viewing information"). As noted above, the "patient information" recited in this third clause of Claim 8 is the same patient information that the first paragraph of the body of Claim 8 states is "entered via a web-based client device in communication with the web-based data processing system." In contrast, the pending rejections of Claims 8, 25 and 41 point to "patient profile" information (see Bestdoctors at p. 4, ¶ 1) as comprising the "patient information" that is allegedly entered via a web-based client device, and then cite to completely different information – namely information gathered over the telephone by a "Medical Case Manager (see Bestdoctors at p. 2, ¶¶ 2-5) – as comprising the "patient information" that is viewed by the physician. Since Claims 8, 25 and 41 expressly indicate that the "patient information" in the first and third paragraphs of the body of those claims comprises the same patient information, it is clear

In re: Malik
Serial No.: 09/838,878
Filed: April 20, 2001
Page 12 of 14

that Bestdoctors also does not teach or disclose the third paragraph of the body of Claim 8 and the corresponding recitations of Claims 25 and 41.

D. Providing a Secure Area for the Healthcare Provider to Provide Diagnosis and/or Treatment Recommendations

The Office Action cites to paragraph C on page 14 of Bestdoctors as teaching the fourth paragraph of the body of Claim 8 and the corresponding recitations of Claims 25 and 41. (See Office Action at p. 3, citing Bestdoctors as teaching "providing a secure area to diagnosis or treat patients"). The cited portion of Bestdoctors discusses an "AcuTrack Case Management Service." The brief description of this service makes clear that the service is provided to facilitate non-patient paying entities to track services that are being provided to patients. (See, e.g., Bestdoctors at 16, stating "Bestdoctors will offer insurers, managed care companies, multinational corporations, and other payers, AcuTrack case management services"; see also Bestdoctors at 14, ¶ D, stating "The goal of this service is to provide appropriate aggressive case management by Best Doctors medical case manager in collaboration with the client's claim manager"). As such, there simply is no disclosure in the cited portion of Bestdoctors that a secure area is provided that "is accessible by the patient" as recited in the fourth paragraph of the body of Claim 8 and the corresponding recitations of Claims 25 and 41. Likewise, the cited portion of Bestdoctors fails to disclose or suggest that a secure area that is accessible "via the web-based client device." Thus, for each of these reasons, Bestdoctors also does not teach or disclose the fourth paragraph of the body of Claim 8 and the corresponding recitations of Claims 25 and 41.

E. The Last Two Paragraphs of Claims 8, 25 and 41

As noted above, the Office Action cites to Surwit and the knowledge of one of skill in the art as teaching the last two paragraphs of Claims 8, 25 and 41. These paragraphs recite:

notifying the patient via electronic communication that the healthcare provider has provided a diagnosis and/or treatment recommendation for the medical condition of the patient within the secure area; and

allowing the patient to access the secure area and, via the secure area, view the diagnosis and/or treatment recommendation provided by the healthcare provider,

In re: Malik
Serial No.: 09/838,878
Filed: April 20, 2001
Page 13 of 14

communicate iteratively with the healthcare provider regarding the diagnosis and/or treatment recommendation, and select a treatment option.

In contrast, the cited portion of Surwit states:

A user may communicate treatment information to a respective patient via a variety of methods including, but not limited to, wireless, satellite, telephone, AVM, e-mail, or facsimile transmission.

(Surwit at Col. 3, lines 15-18). Comparing the above quotations, it is clear that nothing in the cited passage of Surwit teaches or suggests providing a secure area within which a professional services provider provides information for viewing by a client. Surwit likewise does not disclose or suggest notifying the client that the professional services provider has provided information about a matter within the secure area. Thus, the cited art likewise fails to disclose or suggest the remaining two clauses of Claims 8, 25 and 41.

II. Conclusion

As set forth in detail above, the cited art fails to disclose or suggest any of the six paragraphs set forth in the respective bodies of independent Claims 8, 25 and 41. This alone provides six independent reasons as to why the rejections of Claims 8, 25 and 41 should be withdrawn, as well as the rejections of all of the remaining claims, each of which depend from one of Claims 8, 25 or 41. Applicant also believes that it is clear that a person of skill in the art would not have been motivated to combine the disparate parts of the Bestdoctors reference in the manner suggested in the Office Action, as there simply is no motivation to create a web-based healthcare provider service by combining portions of a literature subscription service, an insurer case manager tracking service and a telephone based healthcare provider service. There likewise is no motivation to combine the Surwit reference into this mix, and Applicant respectfully submits that this lack of any motivation to combine provides yet another independent basis for withdrawal of the pending rejections. Finally, Applicant notes that the dependent claims are independently patentable over the cited art, but does not believe that independent discussion of the dependent claims is necessary in light of the clear deficiencies in the rejections of each of the independent claims.

In view of the above, it is respectfully submitted that this application is in condition for allowance, which action is respectfully requested.

In re: Malik
Serial No.: 09/838,878
Filed: April 20, 2001
Page 14 of 14

Respectfully submitted,

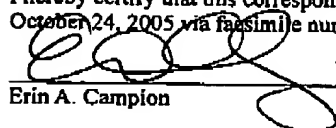


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